



# Excise Tax Alert

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## United Arab Emirates: New mechanisms to calculate the average retail selling price for Excise Goods

### In Brief

The Federal Tax Authority (FTA) has recently published Decision No. (1) of 2021 - with immediate effect - on the mechanism for calculating the average retail selling price of Excise goods in the United Arab Emirates (UAE) market.

The decision covers two main aspects: 1) the calculation of the average retail selling price of the Excise goods intended for retail sale in the UAE and 2) the value determination of Excise goods not intended for retail sale in the UAE.

Excise Taxable Persons are encouraged to review their pricing policy in line with the new Decision to ensure Excise Tax compliance and drive efficiency in the supply chain.

### In Detail

The FTA has issued a new Decision No. (1) of 2021 concerning the calculation of Excise goods' values for goods intended to be sold in the UAE market for retail purposes and goods not intended to be sold in the UAE market for retail purposes.

The new Decision develops the intended procedures to calculate the average retail selling price as mentioned in Article (14) of the Cabinet Decision no. (52) of 2019 and provides further clarity over the different mechanisms of the calculation of the average retail selling price, depending on their intended use.

#### Calculation of the average retail selling price (for goods to be sold in the UAE market for retail purposes)

Article (1) of the Decision specifically focuses on Excise goods intended to be sold in the UAE market for retail purposes. The calculation of the average retail selling price of these goods requires:

- A. Identifying different retail selling prices (RSPs) in which the Taxable Person is a party to or participating in during the 12 month period preceding the month in which the calculation of the average retail selling price is performed
- B. Excluding any VAT and Excise Tax included within each identified RSP
- C. Determining the total revenues in the market arising from the sales of the Excise good for the previous 12 month period
- D. Dividing the total revenues in the market by the total number of units of the Excise good sold during the aforementioned 12 month period
- E. Multiplying the figure resulted from item (D) by the Excise Tax rate applicable to the Excise Good to calculate the Excise Tax due on the Excise good
- F. Adding the figures resulting from items (D) and (E) to arrive at the average retail selling price of the Excise good in the market, excluding VAT

The decision also describes the mechanism to identifying the different RSPs, to provide guidance in relation to item (A).

**Substitution of the average retail selling price (for goods not to be sold in the UAE market for retail purposes)**

Article (2) of the Decision stipulates the approach to determining the average retail selling price, for Excise goods that are not intended to be sold in the UAE market for retail purposes. The Article takes into consideration four scenarios to determine the corresponding average retail selling price:

1. **For goods that are being imported for the purpose of being exported outside the UAE:** the import value of the Excise good would substitute the average retail selling price (the import value would include the Customs value, the value of insurance, freight and any Customs fees that would be applicable on the import of the goods, excluding VAT);
2. **For goods (“original Excise goods”) that are being imported and used in the production of a new Excise good, and the original Excise good is not sold for retail purposes in the UAE:** the import value of the original Excise good would substitute the average retail selling price;
3. **For goods that are being produced in the UAE for the purpose of being exported:** the price for which they are sold for export would substitute the average retail selling price;
4. **For goods (“original Excise Goods”) that are being produced in the UAE for the purpose of being used in the production of new Excise goods, and the original Excise good is not sold for retail purposes in the UAE:** the price at which the original Excise good is designated for sale to produce the new Excise goods (before calculating any deductions or offers) would substitute the average retail selling price.

The Article also specifies that any change of intention of the usage of the Excise goods should be reflected in the determination of the average retail selling price. Should the goods be subsequently intended to be sold in the UAE market for retail purposes, then the relevant Excise Taxable Persons should refer to Article (1) of the Decision to determine the corresponding average retail selling price.

## **The Takeaway**

The new Decision provides clarity around the procedures referred to in the previously issued Cabinet Decision no. (52) of 2019 in relation to calculating the average retail selling price. Excise Taxable Persons can also benefit from the simpler approach undertaken to calculate the Excise goods that are not intended to be sold in the UAE for retail purposes, helping with many practical aspects including but not limited to reducing potential cash flow impact, revisiting the calculation of bank guarantees (in case of operation of a Designated Zone) and simplifying the method for the calculation of retail selling price of these goods.

Excise Taxable Persons should review and adjust, where applicable, their pricing approach of their Excise goods (whether intended to be sold in the UAE market for retail purposes or not) to be aligned with the new Decision, and update the pricing list published on the FTA portal reflecting the new provisions to ensure compliance.

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